

REMARKS/ARGUMENTS

The Examiner indicated that the present application includes claims to the following inventions:

- I. Thermal framing component and a thermal framing assembly (claims 1-11 and 12-20);
- II. Method of making a thermal framing component (claims 21-25); and
- III. Method of installing a thermal framing assembly (claims 26-31).

In response to the Restriction Requirement by the Examiner under 35 U.S.C. 121, the Applicant provisionally elects for examination of Group I, claims 1-20. The Applicant traverses the restriction requirements as between Groups I, II, and III.

The Applicant submits that the examination of the three Groups should be performed together, as the search for these claims will all be done concurrently and the effort for the Examiner to examine all of these claims is not unduly burdensome as compared to examining one of the Groups.

The Examiner also identified two species, from which the Applicant must elect one. Species I was identified by the Examiner to be shown in FIG. 2 (only perpendicularly extending tabs from the component), and Species II was identified by the Examiner as FIGS. 10 and 11 (at least one parallel tab extending from the central portion of the component). The Applicant provisionally elects Species I, with traverse of the requirement.

The Examiner further indicated that if the Applicant elects Species I, the Applicant must elect between Subspecies I, FIGS. 3-5 (metal framing members) and

Subspecies II, FIGS. 6-8 (including wooden studs). The Applicant hereby provisionally elects Subspecies I, with traverse of the requirement.

The Applicant submits that the election of species requirement is asserted in error, as claim 1 is generic to claims 1-20 (and 26-31). "A reasonable number of species may be claimed when there is an allowable generic claim." 37 CFR 1.141, MPEP § 806. It is the Applicant's contention that two species is a reasonable number. In addition, the Applicant submits that the examination of the Species should be performed together, as the search for these claims will all be done concurrently and the effort for the Examiner to examine all of these claims is not unduly burdensome as compared to examining one of the Species.

It is also a requirement for the Applicant to list all claims readable on the provisionally elected Species I. Such claims include claims 1, 3, 5, 6, 8, 9, and 10. Of these claims, all are readable on provisionally elected Subspecies I.

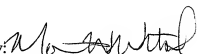
CONCLUSION

As discussed, the search and examination of the claims in the Groups and Species set forth above does not pose a serious burden to the Examiner. In contrast, the cost to the Applicant of pursuing the several Groups is substantial. There is also a generic claim that makes it proper to not restrict the reasonable number of Species identified by the Examiner. If the Examiner has any questions about the present Response or anticipates final restriction that rejects the traverses made herein, a telephone interview is respectfully requested.

Respectfully submitted,

Donald R. Moody

Date: 5 September 2007

By: 
Matthew W. Witsil
Registration No. 47,183
Moore & Van Allen PLLC
430 Davis Drive, Suite 500
P.O. Box 13706
Research Triangle Park, NC 27709
Telephone: (919) 286-8000
Facsimile: (919) 286-8199